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A CONTRACTOR OF THE PROPERTY O		Application Number	09/467,317		
TRANSMITTAL FORM (to be used for all correspondence after initial filing) Total Number of Pages in This Submission 4		Filing Date	December 20, 1999		
		First Named Inventor	Randolph J. Noelle		
		Art Unit	1644		
		Examiner Name	P. Gambel		
		Attorney Docket Numb	20052/1200517-US3		
ENCLOSURES (Check all that apply)					
Fee Transmittal Form	Drawing(s)		After Allowance communication to Technology Center (TC)		
Fee Attached	Licensing-related Papers		Appeal Communication to Board of Appeals and Interferences		
X Amendment/Reply	Petition		Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)		
After Final	Petition to Convert to a Provisional Application		Proprietary Information		
Affidavits/declaration(s)		mey, Revocation rrespondence Address	Status Letter		
Extension of Time Request	Terminal Disclaimer		X Other Enclosure(s) (please Identify below):		
Express Abandonment Request	Request for Refund		Certificate of Express Mailing		
Information Disclosure Statement X CD, Number		of CD(s) 1			
Certified Copy of Priority Document(s)					
Response to Missing Parts/ Incomplete Application					
Response to Missing Parts					
under 37 CFR 1.52 or 1.53					
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT					
Firm DARBY & DARBY P.C.					
or Individual name Stephanie R. Amoroso, Ph.D 51,401					
Signature	Vin -				
Date August 11, 2004					

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Docket No.: 20052/1200517-US3

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Randolph J. Noelle et al.

Application No.: 09/467,317

Art Unit: 1644

Filed: December 20, 1999

Examiner: P. Gambel

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SECOND RESPONSE TO OFFICE COMMUNICATION UNDER 37 CFR 1.105

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

Applicants herewith file a second response to the Office Communication dated July 7, 2004 (Paper No. 07062004). The Examiner has requested Applicants to provide "the Decision on the Interference [in application USSN 08/742,480] as well as related information (e.g. Exhibits, Declarations, etc.) and appeals which will directly affect or be directly affected by or have a bearing on the decision in the pending application [USSN 09/467,317]" since the "Examiner has determined [such information] is reasonably necessary to the examination of this application." Further, the Examiner has "reminded [applicants that if] ... Applicant[s] do not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete reply to the requirement for that item."

As indicated in our response filed August 9, 2004, Applicants were unable to readily obtain a CD-ROM containing digital images of those papers in the possession of Applicants' counsel in the presently pending appeal of Interference No. 104,724, i.e., The Trustees of Dartmouth College and Idec Pharmaceuticals Corporation v. Immunex Corporation, Civil Action No. 03-CV-02676-ORD (W.D.Wa. Sept. 3, 2003) ("the Washington action") containing required information within the period set to respond to the Examiner's request. Applicants have submitted this CD-ROM herewith.

Additionally, as indicated in our response of August 9, 2004, there is a Protective Order in the Washington Action that prevents public disclosure of certain papers and information from that Action which fall under the terms of the Order. In light of the Examiner's RFI in the underlying application, Applicants, through counsel, have obtained authorization from counsel for the defendant in the Washington Action to disclose to the Examiner all such papers from the Action -- even assuming that any of those papers may be within the provisions of the Protective Order. Should there be any problems with accessing the images on the CD, the Examiner is invited to telephone the undersigned.

The Examiner should be further advised that Applicants are supplying in the CD-ROM all papers in their counsel's possession, which may not be, in fact, every single paper from above. Should that be the case and should the Examiner desire any one of such papers (should they be, in fact, missing), then Applicants will make all reasonable efforts to obtain any such missing paper.

Dated: August 11, 2004

Respectfully submitted,

Stephanie R. Amoroso, Ph.D.

Registration No.: 51,401 DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(212) 527-7700

(212) 753-6237 (Fax)

Attorneys/Agents For Applicant

Attorney Docket No.: 20052/1200517-US3

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Second Response To Office Communication Under 37 CFR 1.105 of 7/7/04 (2 pages);

Transmittal Form (1 page);

One CD-ROM (Pleading Documents case no. C03-2676P); and

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